

REMARKS

By the present amendment, claims 15 – 17 have been withdrawn and claims 1 and 5 have been amended. Claims 1 - 14 and 18 - 19 are now pending.

Amendments to the Claims

Support for amendments to claims 1 and 5 can be found for example, throughout the specification, for example: page 12, lines 23 – 27 and Table 2.

All amendments and cancellations are made without prejudice or disclaimer. Applicant explicitly retains the right to pursue any deleted subject matter in one or more continuation applications. No new matter has been added by any of the amendments.

Objections to the Specification

The disclosure was objected to because of embedded hyperlinks and/or other form of browser-executable code at least at pages 6 and 19 of the specification. The paragraphs on page 6, lines 1-26 and page 19, lines 1-14 have been amended to remove the hyperlink text. The objection is requested to be removed.

A. REJECTION UNDER 35 U.S.C. § 102(b)

Claims 1 – 14 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Shilling et al. (J. Immun., Vol. 168, pp. 2305-2315, 2002).

Claims 1-14 have been rejected under 35 USC 102(b) as allegedly being anticipated by Shilling et al. (J. Immun., Vol. 168, pp. 2305-2315, 2002, herein “Shilling”). The Examiner has argued that Shilling teaches “a primer set of claims 1-7, 11, for identifying KIR allele comprising one or more primer pairs to produce an amplicon that is less than or 1000 bases in length from a nucleic acid that encodes intra-exon portion or an extracellular portion of KIR (see page 2310, col. 1, paragraph 1-2, page 2309, Fig. 1, page 2311, Fig. 2 indicating intra-exon portion and extracellular portion of KIR)” The Examiner cites page 2309, Fig. 1 of Shilling for the alleged teaching of amplicon length ranges from less than 1000 to greater than 2000 bases in rejecting claims 8-10, 13-14 and page 2311, Fig. 2 indicating exons 3-5, and 9 for the alleged teaching of the intra-exon or extracellular portion of the KIR receptor is

encoded by any one of the KIR exons 1-8 (Office Action of March 16, 2010, page 3). Applicants respectfully traverse the rejection because Shilling does not teach KIR allele KIR1D.

It is settled law that a "claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987). Furthermore, "[t]he identical invention must be shown in complete detail as contained in the...claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236 (Fed. Cir. 1989).

As amended, independent claims 1 and 5 recite, "... a KIR, wherein the set produces an amplicon for at least KIR1D. Shilling does not teach the KIR allele KIR1D. Thus, Shilling et al. does not anticipate independent claims 1 and 5 and the claims that depend either directly or indirectly therefrom. Withdrawal of the rejection of Claim 1 – 14 as being anticipated by Shilling et al. (J. Immun., Vol. 168, pp. 2305-2315, 2002 is respectfully requested.

B. REJECTIONS UNDER 35 U.S.C. § 103(a)

Claims 18-19 stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Shilling et al. (J. Immun., Vol. 168, pp. 2305-2315, 2002) in view of Stratagene Catalog (Stratagene Catalog, p. 39, 1988).

Claims 18-19 have been rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Shilling in view of Stratagene Catalog (herein "Stratagene"). Applicants respectfully disagree and traverse this rejection for the following reasons.

The Combination of Shilling and Stratagene Does Not Teach All the Limitations of Applicant's Independent Claim 5

Claim 18 is directed to a "kit for detecting one or more KIR alleles comprising the primer set of claim 5" and Claim 19 is directed to a "kit for detecting one or more KIR alleles comprising the primer set of claim 7." Independent Claim 5 has been amended to recite, "...a KIR, wherein the set produces an amplicon for at least KIR1D." Claim 7 depends from claim 6 which depends directly from claim 5 and thus claim 7 includes all the limitations of both claims 5 and 6. Therefore the kits of claims 18 and 19 also include the limitations of claim 5 (claim 18) and claims 5-7 (claim 19).

Applicant submits that neither Shilling nor Stratagene, taken alone or in combination, teach Applicant's kits for detecting one or more KIR alleles comprising the primer set of claim 5 or claim 7.

As discussed *supra* Shilling neither teaches nor suggests a primer set for detecting an amplicon for at least KIR1D as recited in Applicant's independent claim 5 nor does Shilling teach a kit comprising KIR primers. Stratagene does not cure the deficiencies of Shilling and was cited simply for the teaching of a kit for gene characterization.

Therefore, Applicant submits that since Shilling and Stratagene in combination do not disclose all the limitations of independent claims 18 and 19 nor the limitations of independent claim 5 and claims 18-19 each depend directly or indirectly from claim 5, it follows that pending claims 18 and 19 are not obvious under 35 U.S.C. § 103(a) over the combination of Shilling and Stratagene. Accordingly, for this reason alone, Applicant requests withdrawal of the rejection of claims 18 and 19 under 35 U.S.C. § 103(a) as being obvious over Shilling in view of Stratagene.

CONCLUSION

It is respectfully submitted that the application is in condition for allowance. A notice of allowance is therefore respectfully requested. If any issues remain that can be resolved by phone, Applicants request that the Examiner contact the undersigned at (650) 554-3460.

FEES AUTHORIZATION AND REQUEST FOR TIME EXTENSION

Applicants hereby authorize the Commissioner to charge the applicable fee for a One (1)-Month Extension of time under 37 C.F.R. § 1.136(a) from Life Technologies Deposit Account No. **50-3994 (Order No. IVGN 607 US)**. If any additional fees not submitted with this response are required for timely filing of this response, please take such fees from Life Technologies Deposit Account No. **50-3994 (Order No. IVGN 607 US)**. Any deficiency or overpayment should be charged or credited to this deposit account.

Respectfully submitted,

Date: July 16, 2010

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